

DENIS J. McINERNEY
Chief
CHARLES LA BELLA
Deputy Chief
THOMAS B.W. HALL
Trial Attorney
Fraud Section, Criminal Division
U.S. Department of Justice
1400 New York Avenue, NW
Washington, DC 20530
(202) 616-1682

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

-o0o-

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANK SUTTON,

Defendant.

2:12-cr-173-JCM-RJJ

UNOPPOSED MOTION TO CONTINUE
SENTENCING

COMES NOW, the United States of America, by and through DENIS J. MCINERNEY, Chief, U.S. Department of Justice, Criminal Division, Fraud Section, and THOMAS B.W. HALL, Trial Attorney, U.S. Department of Justice, Criminal Division, Fraud Section, and moves to continue the sentencing hearing presently set for February 5, 2013, at the hour of 11:00 am.

The parties respectfully request this Honorable Court to continue the Sentencing Hearing until at least August 1, 2013 to allow time for the Court to consider defendant's potential testimony at any upcoming trial, or, in the alternative, to continue the Sentencing Hearing and set a status conference within 6 months to report to the Court on the on-going investigation and the defendant's status regarding future potential testimony.

1 This is the first request for a continuance of this Sentencing date.

2 Pursuant to General Order No. 2007-04, this motion is made for the following
3 reasons:

4 1. The defendant has entered a plea agreement with the United States.

5 2. Although the defendant's plea agreement does not include the possibility of a United
6 States Sentencing Guideline (U.S.S.G.) § 5K1.1 Motion by the United States, the defendant may
7 be subpoenaed to testify at future trial(s) in this case and both the United States and counsel for the
8 defense agree that the Court may wish to consider such testimony in making its sentencing
9 determinations. However, the United States expects the resolution of such cases, including any
10 trials in any related cases, to be at least 6 months from the defendant's current sentencing date.

11 4. Counsel for the United States has spoken with counsel for the defendant and counsel
12 has agreed that the requested continuance is in the best interest of justice and counsel does not
13 oppose the continuance sought herein. The defendant is not in custody and remains at liberty on
14 his personal recognizance.

15 5. Denial of this request for continuance would deny the parties sufficient time and
16 opportunity to develop the defendant's potential future testimony against the related co-
17 conspirators and targets and prepare related cases for prosecution.

18 6. Furthermore, denial of this request for continuance could result in a miscarriage of
19 justice.

20 /

21 /

22 /

23 /

24 /

25 /

26 /

DATED this 12th day of December 2012.

DENIS J. MCINERNEY
Chief
United States Department of Justice
Criminal Division, Fraud Section

/s/ Thomas B.W. Hall
THOMAS B.W. HALL
Trial Attorney

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 -o0o-

4 UNITED STATES OF AMERICA,)

5 Plaintiff,)

6 v.)

7 FRANK SUTTON,)

8 Defendant.)
9
10

2:12-cr-173-JCM-RJJ

UNOPPOSED
MOTION TO CONTINUE SENTENCING

11 FINDINGS OF FACT

12 Based on the Government's pending Unopposed Motion to Continue Sentencing, and
13 good cause appearing therefore, the Court hereby finds that:

14 1. The parties are in agreement to continue the Sentencing date as presently scheduled.

15 2. This Court is convinced that an adequate showing has been made that to deny this
16 request for continuance, taking into account the exercise of due diligence, would deny the United
17 States sufficient time to be able to effectively prepare for the co-conspirator and target trials and
18 would bar the defendant from the opportunity to testify at those trials and potentially receive
19 consideration from the Court for that testimony at the time of sentencing. This decision is based on
20 the following findings:

21 a. The United States anticipates several additional pleas, indictments and trials in related
22 cases, but not sooner than 6 months from now.

23 b. The defendant may be subpoenaed to testify at one or more trials and it is in the
24 interests of justice for the Court to consider such potential future testimony in its sentencing
25 decision.

26 c. The parties need additional time to prepare the defendant's potential testimony in trials

1 against other co-conspirators and targets.

2 d. The defendant does not object to the continuance.

3 e. The defendant is out of custody.

4 3. For all the above-stated reasons, the ends of justice would best be served by continuing
5 the Sentencing date.

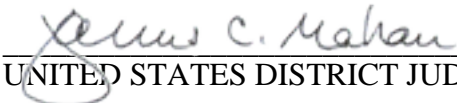
6 4. The additional time requested by this Stipulation is excludable in computing the time
7 within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. Section
8 3161(h)(8)(A), considering the factors under 18 U.S.C. Sections 3161(h)(8)(B)(I) and (v).

9 **ORDER**

10 **IT IS THEREFORE ORDERED** that the Sentencing hearing currently set for February
11 5, 2013 is vacated and continued. This delay is excluded from the time within which the trial must
12 commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A).

13 It is further ordered that the defendant's sentencing hearing is set for August 27, 2013 at the
14 hour of 10:00 a.m., in Courtroom # 6A.

15
16
17 **DATED** December 13, 2012.

18
19
20 
21 UNITED STATES DISTRICT JUDGE
22
23
24
25
26

ELECTRONIC CERTIFICATE OF SERVICE

-o0o-

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANK SUTTON,

Defendant.

2:12-cr-173-JCM-RJJ

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee of the United States Department of Justice, Criminal Division, and that on this day an electronic copy of the foregoing UNOPPOSED MOTION TO CONTINUE SENTENCING was electronically served on all parties who have registered their appearance via the CM/ECF system.

Dated: December 12, 2012

/S/ Thomas B.W. Hall

THOMAS B.W. Hall
Trial Attorney